

**Before the  
Federal Communications Commission  
Washington, DC 20554**

In the Matter of: )  
 ) PS Docket No. 06-229  
Petitions for Waiver to Use )  
the 700 MHz for Regional Public )  
Safety )  
Broadband Communications )  
 )

**Comments of Harris Corporation  
On Petition For Waiver  
Filed By The City And County Of San Francisco,  
The City Of Oakland, And The City Of San Jose (Bay Area Cities)**

The Harris Corporation (Harris) submits comments on Petition for Waiver filed by the City and County of San Francisco, the City of Oakland, and the City of San Jose (Bay Area Cities).<sup>1</sup> Harris urges the Commission to approve the Bay Area Waiver Petition only upon determination that:

- 1) Competition in the public safety LTE market will not be harmed by granting the Bay Area Waiver Petition; and
- 2) A grant of the Bay Area Waiver Petition will result in the development of a truly interoperable and vendor-neutral network.

**I. BACKGROUND.**

In May 2010, the Commission granted the Bay Area Cities and 20 other jurisdictions waivers to deploy interoperable public safety broadband networks in the 700 MHz public safety broadband spectrum.<sup>2</sup> Part of its responsibility under the Waiver Order is to enter into a long-term *de facto* spectrum transfer lease with the Public Safety Spectrum Trust

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<sup>1</sup> See Waiver – Expedited Action Requested, filed by the City and County of San Francisco, the City of Oakland, and the City of San Jose, PS Docket No. 06-229 (filed Dec. 23, 2011) (Bay Area Waiver Petition).

<sup>2</sup> Requests for Waiver of Various Petitioners to Allow the Establishment of 700 MHz Interoperable Public Safety Wireless Broadband Networks, PS Docket No. 06-229, *Order*, 25 FCC Rcd 5145 (2010) (Waiver Order).

(PSST) within 60 days of approval of the Waiver Order's information collection requirements by the Office of Management and Budget.<sup>3</sup> While a lease was entered into under the auspices of the Bay Area Cities Waiver, doubt has been cast upon its validity by a Bay Area County public safety entity.<sup>4</sup> The Bay Area Cities have subsequently created the BayRICS Joint Powers Authority and now seek to enter into a valid lease with PSST and have the lease deadline waived.<sup>5</sup> One justification made by the Bay Area Cities for waiving the Commission's lease deadline is the threat of losing federal funding:

... denial of the waiver would jeopardize the timing for rollout of the network and critical, one-time funding awarded by the National Telecommunications and Information Administration (NTIA) to Motorola to implement the BayWEB project that will consist of approximately 136 sites throughout the BayWEB Jurisdictions. The \$50.6 million grant from NTIA carries with it two overriding deadlines that govern timing of the BayWEB project, thus making access to the 700 MHz spectrum vis a vis a new de facto transfer lease a critical factor in helping meet those milestones.<sup>6</sup>

On November 14, the BayRICS Joint Powers Authority proposed a Build, Own, Operate & Maintain (BOOM) agreement with Motorola Solutions. On January 19, 2012, three members of the Board of the BayRICS Joint Powers Authority voted against the Motorola BOOM, and nine voted in favor of it.

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<sup>3</sup> *Id.* at 5154, ¶ 27.

<sup>4</sup> *See* Bay Area Waiver Petition at ii.

<sup>5</sup> *See id.* at iii.

<sup>6</sup> *Id.*

## **II. The Commission Should Grant the Waiver Only Upon Determination the BayWEB Network, as Established Through the Motorola BOOM, Will Meet the Needs of Public Safety and the Goals of the Commission.**

To determine if the Bay Area Waiver Petition serves the public interest, the Commission must assess how the Motorola BOOM agreement will impact the core goal of interoperability and functionality embodied in the Commission's rules and Orders. The Commission has made clear that competition and a multi-vendor public safety broadband market is vital to assure that interoperability can exist:

Indeed, one of the most basic tenets of interoperability is the ability of an entity to construct a network using equipment from a variety of vendors that works together seamlessly. In this respect, a network operator should be able to procure cores, radio access network equipment, and devices, all from multiple vendors, without sacrificing functionality.<sup>7</sup>

Further, the Commission has made clear that it is vital to determine that a proposed network meets first responders' needs and interoperates with other vendor equipment and networks:

Particularly in the early deployment stage, it will be important to verify that new broadband equipment being developed to support the network meets public safety's use expectations, will work in a multivendor environment....<sup>8</sup>

As was noted by San Jose, the goals of the Commission are at risk with regard to the Motorola BOOM:

Given the significant compromises made in developing the BOOM Agreement, the lack of guarantee that the funds invested will result in a system that meets public safety needs throughout the 10-years of the contract, and the fiscal risks to

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<sup>7</sup> Public Safety and Homeland Security Bureau Seeks Comment on Petition for Declaratory Ruling Asking to Clarify Language in Order Granting 700 MHz Public Safety Broadband Waiver to the State of Texas, PS Docket No. 06-229, *Order*, ¶ 6 (Aug. 22, 2011).

<sup>8</sup> Waiver Order at ¶ 60.

the Authority and its members, staff recommends [voting against the Motorola BOOM]. Such a vote puts the ARRA funds at risk, but we can all cite projects where free money from federal or state sources have led to exponentially higher downstream costs. Had a different - and transparent - course been taken by UASI staff in the beginning, we would be having a different discussion.<sup>9</sup>

Santa Clara County, in justifying its opposition to the Motorola BOOM, highlighted similar technical concerns:

County staff has participated actively throughout the process of negotiations with Motorola, Inc on the BOOM agreement and is fully aware of the technical deficiencies of the proposed system and of the financial and legal risks inherent in the concessions made by the JPA Board to Motorola, Inc as part of the BOOM negotiations. Consequently, staff does not recommend that the County sign the BOOM agreement.<sup>10</sup>

It is important to ensure that the BayRICS Joint Powers Authority is developing a plan that will provide an interoperable broadband network to first responders in the Bay Area Cities or enable the competitive environment that will make true interoperability possible.<sup>11</sup> Thus, prior to granting the Bay Area Waiver Petition, the Commission should determine, at a minimum, that the BayRICS Joint Powers Authority network:

- 1) Interoperates with networks and devices of at least three other vendors;
- 2) Will not create market control by one vendor in adjacent regions;

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<sup>9</sup> See Memorandum from William McDonald and Michelle McGurk to the San Jose Mayor and City Council (Dec. 2, 2011) (available as approved at: [http://www.sanjoseca.gov/clerk/Agenda/20111213/20111213\\_0801.pdf](http://www.sanjoseca.gov/clerk/Agenda/20111213/20111213_0801.pdf)) (emphasis added).

<sup>10</sup> See Memorandum from Emily Harrison to the Santa Clara County Finance & Government Operations Committee (Jan. 12, 2012) (available at: <http://www.sccgov.org/keyboard/attachments/Committee%20Agenda/2012/January%202012,%202012/203830719/KeyboardTransmittalWeb203831022.PDF>).

<sup>11</sup> With respect to the definition of interoperability, Harris joins several other parties in stating that: “Interoperability must be viewed as interchangeability: the ability of public safety to interact with a multi-sourced supply chain, grounded in open standards. All critical applications, devices and network technologies should be capable of being used together regardless of brand or network location, and public safety must be encouraged to develop a competitive supply...” See Letter to Sen. Jay Rockefeller, Sen. Kay Bailey Hutchison, Rep. Fred Upton, and Rep. Henry A. Waxman from Harris Corporation, Alcatel-Lucent, Cassidian Communications Inc., Cisco Systems, Inc., Nokia Siemens Networks, Panasonic Solutions Company, RELM Wireless Corporation, and Sprint Nextel Corporation (July 29, 2011).

- 3) Will not lead to decreased competition in the public safety LTE market in adjacent regions or nationwide.

To ensure that these goals are met, the BayRICS Joint Powers Authority should be required go through a competitive request for proposal process to qualify and select vendors for the build out, especially considering the fact that millions of dollars in Federal funds are being used for this project.

Moreover, Harris suggests that the Commission can best make these determinations through the input of stakeholders with expertise on how the Motorola BOOM can impact interoperability and competition. Accordingly, the Commission should put on Public Notice the Motorola BOOM and seek comment on its impact upon interoperability on an adjacent jurisdictional and national basis. Only through review of a comprehensive record on the Motorola BOOM can the Commission assess whether the public interest is served by granting the Bay Area Waiver Petition.

### **III. CONCLUSION.**

Based upon the facts above, we urge the Commission to assess whether the goal of the Bay Area Cities to create an interoperable public safety network, as represented in its Waiver request, can be achieved upon Commission grant of a waiver of its lease requirement. This should be of paramount importance to the Commission as it evaluates Bay Area Waiver Petition. Thus, the Commission should take action pursuant to the comments above.

Respectfully submitted,

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